

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION

UNITED STATES OF AMERICA

v.

LAGARRIS ALEXANDER PEACE

Criminal Case No.:  
4:19 CR 47

October 13, 2020

COMPLETE TRANSCRIPT OF SENTENCING HEARING  
BEFORE THE HONORABLE DAVID J. NOVAK  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

Peter G. Osyf, Esquire  
OFFICE OF THE UNITED STATES ATTORNEY  
721 Lakefront Commons  
Suite 300  
Newport News, Virginia 23606

Counsel on behalf of the United States

Christian Lee Connell, Esquire  
Christian L. Connell, P.C.  
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Counsel on behalf of the Defendant

TRACY J. STROH, RPR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT

1 (The proceeding commenced at 11:03 a.m.)

2 THE CLERK: Criminal matter 4:19 CR 47,  
3 Defendant 30, the *United States of America v. Lagarris*  
4 *Alexander Peace*.

5 Mr. Peace is being represented by Christian L.  
6 Connell. Government being represented by Peter G. Osyf.  
7 Counsel, are we ready to proceed?

8 MR. OSYF: The United States is ready. Good  
9 morning, Your Honor.

10 THE COURT: Good morning.

11 MR. CONNELL: Good morning. We are, Your Honor.

12 THE COURT: Okay. So here's what we're going to  
13 do on the masks. I'm going to ask you to keep your mask  
14 on when you speak. Just speak loud enough that the court  
15 reporter can hear you. If for some reason that's not  
16 working, we're going to go to taking the mask off so she  
17 can hear you. Okay?

18 As I understand it, the government had no  
19 objections to the presentence report; is that right?

20 MR. OSYF: That's correct, Your Honor.

21 THE COURT: All right. And -- and, Mr. Connell,  
22 am I right to believe that the defense had no objections,  
23 then, as well?

24 MR. CONNELL: That is correct, Your Honor. I  
25 think there was a date that may have been erroneous, and I

1 conferred with the probation officer about that. I  
2 thought they had corrected it.

3 THE COURT: Okay. All right.

4 MR. CONNELL: But it had no impact on the  
5 guidelines or his criminal history or anything.

6 THE COURT: All right. That's fine.

7 We're going to have Mr. Peace rise.

8 Sir -- just rise real quick.

9 Sir, you'll recall that the magistrate judge  
10 entered a presentence report to be completed for you. Did  
11 Mr. Connell bring that report to you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did he go over it with you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did you have any changes or  
16 corrections that you want to make to the presentence  
17 report?

18 THE DEFENDANT: No, sir.

19 THE COURT: Okay. All right. We'll adopt that,  
20 then. You can have a seat.

21 Mr. Connell, I will ask you, the magistrate  
22 judge also accepted the guilty plea. Is there any reason  
23 why I should not adopt the magistrate judge's finding of  
24 guilt?

25 MR. CONNELL: No, Your Honor.

1 THE COURT: All right. Then I will adopt the  
2 finding of guilt in ECF No. 1000.

3 And I should have asked, Mr. Connell, did you  
4 also go over the standard conditions of supervision with  
5 your client that are set forth in the presentence report?

6 MR. CONNELL: Your Honor, I -- not in great  
7 detail. We discussed supervision. He actually is on --  
8 he was on criminal supervision in North Carolina at the  
9 time. So he has a little more familiarity than he  
10 probably otherwise should. So I have gone over it but not  
11 in great detail, but --

12 THE COURT: Well, they're set forth in the  
13 presentence report.

14 MR. CONNELL: Yes, sir.

15 THE COURT: Did you give him the presentence  
16 report?

17 MR. CONNELL: Yes, sir. I've been through that  
18 thoroughly. But we focused more on the sentencing  
19 guidelines, potential sentence and background information,  
20 a little less on the supervision.

21 THE COURT: Well, do you want to ask him  
22 right -- does he have any questions or --

23 MR. CONNELL: He has no questions, Your Honor.

24 THE COURT: Mr. Peace, did you have any --  
25 Mr. Peace, do you want to rise?

1           Mr. Peace, in the presentence report were our  
2 standard conditions of supervision. Did you review those  
3 with your lawyer?

4           THE DEFENDANT: Yes, sir.

5           THE COURT: Did you understand them?

6           THE DEFENDANT: Yes, sir.

7           THE COURT: Did you have enough time to go over  
8 them?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: Did you have any questions about  
11 them at all for me?

12          THE DEFENDANT: No, sir.

13          THE COURT: All right. You can have a seat,  
14 then.

15          All right. So we're going to adopt the  
16 guideline range. The presentence report -- the  
17 presentence report provided for a Criminal History  
18 Category IV, an offense level 27.

19          Now, I've applied a variance that I refer to as  
20 the Novak Coronavirus Variance of a one level reduction in  
21 favor of the defendant. I've done that for all defendants  
22 who have pled guilty promptly in light of the pandemic due  
23 to the resources that it saves the Court in these very  
24 unique times.

25          Even though the defendant pled guilty in front

1 of the magistrate judge in this case, to make sure there's  
2 no disparities, I'm going award him that extra level of  
3 variance as well. That reduces the offense level from a  
4 level 27 to a level 26, for a guideline range of 92 to  
5 115 months. However, it is restricted by the mandatory  
6 minimum of 120 months. It seems like you're both in  
7 agreement as to that.

8           Mr. Osyf, did you want to say anything else  
9 other than what's in your papers?

10           MR. OSYF: No, Your Honor.

11           THE COURT: All right. Mr. Connell, do you want  
12 to go over with your client, then, to the lectern? And  
13 then I'll give you both a chance to be heard.

14           All right. This is your opportunity,  
15 Mr. Connell, to argue on behalf of your client. It seems  
16 to me you're both in agreement on the 120 months. But if  
17 there's anything you want to say on behalf of your client,  
18 now is the time.

19           MR. CONNELL: I'll begin with -- I'm a little  
20 older now, and the way I practice -- I was introduced to  
21 the practice -- I'm now 57. I first would just like to  
22 say hello --

23           THE COURT: Okay.

24           MR. CONNELL: -- Judge Novak. I haven't been  
25 before you before.

1 THE COURT: All right.

2 MR. CONNELL: It's a pleasure.

3 THE COURT: It's my pleasure as well.

4 MR. CONNELL: It's nice to be in front of you.

5 THE COURT: And I'll be seeing you again --

6 MR. CONNELL: Yes, sir.

7 THE COURT: -- because this is a long-term  
8 situation I think for me, at least for a while.

9 MR. CONNELL: Well --

10 THE COURT: So I think you -- all of you are  
11 stuck with me here for a while.

12 MR. CONNELL: Yes, sir. But I just wanted to do  
13 that. That's how I was introduced to the practice. I  
14 sort of try to continue that practice.

15 THE COURT: That's fine.

16 MR. CONNELL: I'm not -- at this point in my  
17 career, I don't believe I want to argue myself into a  
18 difficult position. I think the Court is familiar with  
19 our position in our sentencing paper.

20 I would just say that the mandatory minimum now  
21 exceeds what the Court's recommended guidelines are -- or  
22 the probation officer's recommended guidelines, and I will  
23 just leave it at that.

24 THE COURT: Well, I intend to give the mandatory  
25 minimum. But I wanted to ask you one question.

1 MR. CONNELL: Yes, sir.

2 THE COURT: I want to give you a chance to be  
3 heard on this, and that's this. So he is under  
4 supervision down in Vance County, North Carolina; is that  
5 right?

6 MR. CONNELL: That's correct, Your Honor.

7 THE COURT: Does he face come-back time there?

8 MR. CONNELL: Yes, sir.

9 THE COURT: So it is my policy, in that  
10 situation, to make this sentence consecutive to any  
11 sentence that he may receive in the state system. There's  
12 a Supreme Court case, *Setser v. United States*, that says  
13 that. But before I do it, I want to give you a chance to  
14 be heard on that.

15 MR. CONNELL: What he tells me is -- and I'm  
16 mistaken, then. He says that his time, actually, in  
17 North Carolina, he's already served the time and his time  
18 will be up. So I guess what he's telling me, in effect,  
19 is he's not going to face come-back time.

20 THE COURT: Well, that's good. So I'm going to  
21 make it consecutive, but if there's no time --

22 MR. CONNELL: Yes, sir.

23 THE COURT: -- he doesn't have to worry about  
24 it. So I'll accept what he's saying, but as a policy,  
25 that's the way I do it because I don't believe in buy one



1 get one free here.

2 MR. CONNELL: Yes, sir.

3 THE COURT: Okay. Is there anything else you  
4 wanted to say?

5 MR. CONNELL: Nothing, Your Honor.

6 THE COURT: All right. Mr. Peace, this is your  
7 opportunity to say anything you want to me before I impose  
8 sentence.

9 THE DEFENDANT: I'm just here accepting  
10 responsibility as a man and apologize to my family and  
11 government for being here today.

12 THE COURT: All right. You know, you're only  
13 27 years old.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You're a really young guy to have  
16 the record that you have. You have a voluntary  
17 manslaughter conviction. I understand that there was some  
18 explanation on that, but still, that's significant.  
19 You've got a prior drug offense. You've got this pending  
20 probation violation we just spoke about. And the most  
21 disturbing thing maybe is I understand you've never held  
22 an honest job. Is that right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Why is that?

25 THE DEFENDANT: I can't answer that, sir.

1           THE COURT: Well, I'm going to tell you, you  
2 know, when you get out, you're going to be under my  
3 supervision for a substantial period of time. And I'm  
4 going to tell you, unless God takes me, I'm still going to  
5 be sitting here. And while I'm going to give you the  
6 mandatory minimum today, if you come back and you have any  
7 violation while you're under my supervision, I'm going to  
8 give you every possible day that I can. Are we clear?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: And one of the requirements is  
11 you're going to have a job. Working for a living is how  
12 you survive. You don't live off your mom, and you don't  
13 sell drugs. You work. That's how normal people live  
14 their lives. And I can assure you you're going to do that  
15 or you're going to go back to jail. Are we clear on that?

16          THE DEFENDANT: Yes, sir.

17          THE COURT: All right. Anything else you want  
18 to say?

19          MR. CONNELL: No, Your Honor.

20          THE COURT: All right. I've considered the  
21 factors in Section 3553(a) of Title 18, beginning,  
22 number (1), with the nature and circumstances of the  
23 offense and the history and characteristics of the  
24 defendant. This is a serious drug conspiracy in which the  
25 defendant was a significant player in the conspiracy. He

1 got his cousin, Cory Bullock, to introduce him to the main  
2 guy, Ramirez-Barreto, and then distributed significant  
3 amounts of heroin in Henderson, North Carolina. As noted  
4 also, the defendant committed the offense while under  
5 supervision for another drug offense, which is certainly  
6 alarming. His criminal history is atrocious at the age  
7 of 27, as I mentioned, the prior convictions, and he's  
8 never been gainfully employed, which is also a strike  
9 against him.

10           Number (2), the need for the sentence imposed to  
11 reflect the seriousness of the offense, to promote respect  
12 for the law, and to provide just punishment for the  
13 offense, and to afford adequate deterrence to criminal  
14 conduct. I think imposing a ten-year sentence here does  
15 that.

16           To protect the public from future crimes of the  
17 defendant, and to provide him with needed educational or  
18 vocational, medical care, or other correctional treatment  
19 in the most effective manner. A lengthy sentence  
20 certainly does that. But as I said, he's going to be  
21 under supervision for a substantial period of time with  
22 me, and if he has any drama, he's going to go to jail for  
23 an extremely long time.

24           I've also considered the other factors, (3),  
25 (4), which address the types of sentences available.

1 Well, this provides for a mandatory minimum sentence of  
2 incarceration. So that's what has to be imposed.

3 As well as number (5), any pertinent policy  
4 statements. There is an enormous amount of policy  
5 statements about the impact of drugs in our community  
6 that's appropriate here.

7 Number (6), to avoid unwarranted sentencing  
8 disparities amongst defendants with similar records who  
9 have been found guilty of similar conduct. I've looked at  
10 the sentences of all the co-defendants here. I've also  
11 applied the coronavirus variance to the defendant to make  
12 sure he was treated equally with everybody else. So I  
13 think I've complied with that.

14 So -- so pursuant to the Sentencing Reform Act  
15 of 1984, it is the judgment of the Court that the  
16 defendant, Lagarris Alexander Peace, is hereby committed  
17 to the custody of the United States Bureau of Prisons, to  
18 be imprisoned for a term of 120 months. He is hereby  
19 remanded to the custody of the United States Marshal to  
20 begin serving his sentence.

21 He shall receive credit for time served since he  
22 was initially arrested. And I believe that was May 20th  
23 of 2019.

24 Am I right about that, Mr. Osyf?

25 MR. OSYF: Yes. I believe that's correct,

1 Your Honor.

2 THE COURT: So time served since May 20th of  
3 2019.

4 The sentence shall be served consecutive to any  
5 sentence that he could possibly receive for the pending  
6 probation violation -- probation violation in Vance  
7 County, North Carolina. He says he's not facing any more  
8 time, but if he is, any sentence that he receives here  
9 shall be consecutive to any sentence he receives in  
10 North Carolina, pursuant to *Setser v. United States*.

11 Upon release from imprisonment, the defendant  
12 shall be placed on a term of supervised release for  
13 ten years. Within 72 hours of release from custody of the  
14 Bureau of Prisons, the defendant shall report in person to  
15 the probation office in the district in which the  
16 defendant is released.

17 The defendant shall refrain from any unlawful  
18 use of a controlled substance and shall submit to one drug  
19 test within 15 days -- within 15 days after beginning his  
20 term of supervised release, and at least two periodic drug  
21 tests thereafter as directed by the probation officer.

22 While on supervision, the defendant shall not  
23 commit another federal, state or local crime, and shall  
24 not unlawfully possess a controlled substance, and shall  
25 not possess a firearm or destructive device.

1           The defendant shall comply with the standard  
2 conditions that have been adopted by this Court, to which  
3 none have been objected to.

4           In addition to the standard conditions, he shall  
5 also comply with the following additional conditions: The  
6 defendant shall learn a vocational skill during his period  
7 of supervision if not employed full time. I'm going to  
8 require that he is -- beginning 60 days after his release,  
9 he is to work or perform community service at a minimum of  
10 30 hours per week. During the entire time of his  
11 supervision, at least 30 hours. So if he gets a job and  
12 he's employed, that's great. Got to be at least 30 hours.  
13 Anything less than 30 hours, he has to do community  
14 service to make it up.

15           The defendant shall -- if the defendant tests  
16 positive for a controlled substance, he shall participate  
17 in a program approved by the probation office for  
18 substance abuse. The program may include residential  
19 treatment and testing to determine whether the defendant  
20 has reverted to the use of drugs or alcohol, with partial  
21 costs to be paid by the defendant, all as directed by the  
22 probation officer.

23           The defendant shall waive all rights of  
24 confidentiality regarding substance abuse treatment in  
25 order to allow the release of information to the probation

1 office and to authorize communication between the  
2 probation officer and the treatment provider.

3 I've considered his lifestyle, his net worth,  
4 his lack of liquid assets, his financial needs, and his  
5 earning potential. I find he's not capable of paying a  
6 fine. Therefore, no fine will be imposed.

7 I'm required, however, to impose a special  
8 assessment in the amount of \$100. There is -- restitution  
9 is not applicable here, as I said. No fine will be  
10 imposed.

11 There was no forfeiture; is that right?

12 MR. OSYF: That's correct, Your Honor.

13 THE COURT: All right.

14 As to the \$100 special assessment, that shall be  
15 due and payable immediately. Any balance unpaid of the  
16 special assessment at the inception of supervision shall  
17 be paid by the defendant in installments of not less than  
18 \$50 a month until paid in full and shall also begin  
19 60 days after supervision begins. Any special assessment  
20 payments may be subject to penalties for default and  
21 delinquency. Nothing in this order shall prohibit the  
22 collection of the special assessment.

23 All right. So -- so, Mr. Peace, so you're going  
24 to be under my supervision now for ten years after you get  
25 out of jail. So you've got to do a ten-year sentence.

1 And then after that, you're going to do ten years on my  
2 supervision.

3           While you're under my supervision, as you heard  
4 me say, you're going to work. You're either going to work  
5 at least 30 hours a week. If you don't have a job, you're  
6 going to do community service, but you're going to do  
7 something. Now, if it were me, I'd want to get paid for  
8 it, but that's up to you. Because if you don't want to  
9 get paid for it, you'll do it for free. That's community  
10 service. But you are going to work. And if you don't,  
11 that's going to be a specific violation of my conditions  
12 of supervision and I'm going to put you back in jail.

13           Are we on the same page on that? Is that a yes?

14           THE DEFENDANT: Yes, sir.

15           THE COURT: All right. You have 14 days from  
16 today's date to appeal the sentence of the Court. If you  
17 want to appeal, it must be in writing, and Mr. Connell  
18 will do it for you. Do you understand that?

19           THE DEFENDANT: Yes, sir.

20           THE COURT: All right.

21           Mr. Connell, do you have anything else?

22           MR. CONNELL: No, Your Honor.

23           THE COURT: Mr. Osyf, do you have anything else?

24           MR. OSYF: No, Judge.

25           THE COURT: All right. Mr. Peace, I wish you



1 well with the service of your sentence. Good luck.

2 THE CSO: All rise.

3 THE CLERK: Peter, did you dismiss the remaining  
4 counts?

5 MR. OSYF: Oh, I'm sorry.

6 Your Honor, there is one more thing from the  
7 government.

8 THE COURT: Hold on a second.

9 MR. OSYF: The government moves to dismiss the  
10 remaining counts against Mr. Peace.

11 THE COURT: That's granted.

12 MR. OSYF: Thank you.

13 THE COURT: Okay.

14 (The proceeding concluded at 11:19 a.m.)

15 REPORTER'S CERTIFICATE

16 I, Tracy J. Stroh, OCR, RPR, Notary Public in and for  
17 the Commonwealth of Virginia at large, and whose  
18 commission expires September 30, 2023, Notary Registration  
19 Number 7108255, do hereby certify that the pages contained  
20 herein accurately reflect the stenographic notes taken by  
21 me, to the best of my ability, in the above-styled action.

22 Given under my hand this 8th day of November 2021.

23 /s/

24 \_\_\_\_\_  
Tracy J. Stroh, RPR